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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/587,337

07/26/2006

Pascal Joubert Des Ouches

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EXAMINER

ANDERSON, AMBER R

ART UNIT

PAPER NUMBER

3765

NOTIFICATION DATE

DELIVERY MODE

11/10/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/587,337	Applicant(s) JOUBERT DES OUCHES, PASCAL	
	Examiner AMBER R. ANDERSON	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 6,8,9,14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,10-13,16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/26/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in response to Election filed on August 6, 2009 in which claims 1-5, 7, 10-13, 16, and 17 have been elected with traverse. Claims 6, 8, 9, 14, and 15 have been withdrawn from consideration. The applicants' arguments are not persuasive. The species restriction is proper because the features of the different embodiments cannot be used in combination with each other. Further, the withdrawn claims will be allowed if an independent claim is found to be allowable and generic to all claimed species.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what is meant by "anti-perforation fabric improving airing". Specifically, how and by what means does a non perforated fabric improve airing if there is no path for the air to move out of the helmet (or in)?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 3765

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 7, 10-13, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by March (USPN 5,661,854).

Regarding Claim 1, March discloses protective helmet (10) comprising a deformable internal foam liner (Col. 3, lines 56-62 wherein the foam is an expanded foam and thus is deformable), a plurality of rigid external shell segments arranged on the foam liner (Fig. 1-6) so as to form at least one crown segment (25), at least one occipital segment (11, 17) and a plurality of transverse side segments (12, 13, 15, 16), and joining means (27) made of a flexible material performing joining between the shell segments (Fig. 6 & 7, Col. 3, lines 63-66, Col. 4, lines 41-45), helmet wherein the shell segments and the joining means made of flexible material are joined to the foam liner (via the segments 18-24) in such a way as to enable a slight sliding between the foam liner and at least a part of the shell segments (wherein the elastic material is attached at its perimeter to the inner shell segments and only at the center to the outer shell segments thus allowing a slight sliding of the outer shell segments to the foam liner which is attached to the inner shell segments; Col. 4, lines 7-8 and lines 41-45).

Regarding Claim 2, March discloses comprising at least one front segment (14).

Regarding Claim 3, March discloses comprising at least four transverse side segments (12, 13, 15, 16).

Regarding Claim 7, March discloses comprising a textile surface covering the shell segments (27, wherein the textile covers the inner surface of the shell segments).

Regarding Claim 10, March discloses wherein the joining means made of flexible material are formed by strips joining the shell segments to one another (27).

Regarding Claim 11, March discloses wherein the strips are made of elastomer (Col. 3, lines 63-66).

Regarding Claim 12, March discloses wherein the flexible joining material is made from an anti-perforation fabric improving airing (27, wherein the material doesn't appear to have any perforations).

Regarding Claim 13, March discloses wherein the foam liner comprises a plurality of cut-outs offset with respect to the separating gaps between the shell segments (Fig. 5, wherein the liner is cut into segments creating cutouts).

Regarding Claim 16, March discloses wherein the foam liner is made of polymer foam of the expanded polypropylene type presenting good compression shock-absorbing and flexion elasticity characteristics (Col. 3, lines 56-62).

Art Unit: 3765

Regarding Claim 17, March discloses comprising a plurality of additional shell segments joined to the foam liner and arranged facing the separating gaps between the shell segments (18, 19, 20, 21, 22, 23, 24).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over March (USPN 5,661,854) in view of Howard (USPN 3,087,166).

March discloses the invention substantially as claimed above. However, March does not disclose comprising a headband adjustment means fixedly secured at least to the occipital segment. Howard teaches a flexible protective helmet (Fig. 1-3) with multiple panels (5, 6) connected to each other by elastic strip (7) and further comprises a headband adjustment means (20, 21, 35) secured to the occipital segment (Fig. 2 & 3, through holes 36-39 and wherein it is fixedly secured in that when the device is tied it cannot be taken out of the holes) in order to further tighten the helmet to the wearers head to provide a more snug and comfortable fit and prevent shifting of the helmet.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the helmet of March with an headband

Art Unit: 3765

adjustment means, as taught by Howard, in order to further tighten the helmet to the wearers head to provide a more snug and comfortable fit and prevent shifting of the helmet.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over March (USPN 5,661,854) and Howard (USPN 3,087,166) in view of Shifrin (USPN 5,515,546).

The combination of March and Howard disclose the invention substantially as claimed above. Howard further discloses wherein the adjustment means comprise a lace joining the shell segments to one another (20, 21, 35). Howard discloses a knot as the means to tighten and loosen the helmet (Fig. 1 & 3). Howard does not disclose a knurled knob cooperating with the lace and actuating tightening and loosening of the helmet. Shifrin teaches a helmet (Fig. 1) which comprises shell segments and pads (10, 12, 14, 16, 18, 20) that are attached to each other via strips of material (26, 32, 34) and lace (40) that are tightened and loosened by a knurled knob (60) so as to easily loosen and tighten the helmet without undue effort.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the combination helmet of March and Howard with a knurled knob, as taught by Shifrin, in order to easily loosen and tighten the helmet without undue effort

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the design of the headwear of Carlisle (USPN 3,197,784) and Häberle (USPN 4,856,119).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMBER R. ANDERSON whose telephone number is (571) 270-5281. The examiner can normally be reached on Mon-Thur, 8am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AMBER R ANDERSON/
Examiner, Art Unit 3765

November 5, 2009

/GARY L. WELCH/

Application/Control Number: 10/587,337

Page 8

Art Unit: 3765

Supervisory Patent Examiner, Art Unit 3765